

the Examiner conducted on May 29, 2003, the undersigned proposed to submit new claims slightly broader than claims 16 and 24, which new claims would recite that the mathematical model was a function of caliper, softwood pulp content and filler level. The formulas set forth in claims 16 and 24 are slightly narrower in that the formula set forth therein has a fourth term, namely, the constant \hat{a}_0 .

The Applicants believe that none of the references applied in the Final Rejection disclose or suggest the aforementioned combination of factors as being determinative of fracture toughness. The undersigned's understanding, during the telephone interview, was that the Examiner agreed with this proposition and was presently of the opinion that such claims would be allowable. Accordingly, the Applicants have amended claims 15 and 21 to recite that the material properties used in the mathematical model of fracture toughness comprise caliper, softwood pulp content and filler level. Independent claim 18 has also been amended to recite that sets of material property data comprising respective data for caliper, softwood pulp content and filler level of respective grades of paper or paperboard are stored in a databank and later retrieved.

The Applicants have also added new claims 25-32 that are amended versions of claims pending in U.S. patent application Ser. No. 10/118,148, which is under Final Rejection and which Applicants intend to allow to become

abandoned. In Ser. No. 10/118,148, the Examiner indicated that the claims reciting the mathematical formula for fracture toughness as a function of caliper, softwood pulp content and filler level would be allowable if suitable amended in independent form. Although the claims in that application were the result of a restriction requirement in Ser. No. 10/118,148, the Applicants believe that restriction should not be required in the Continued Prosecution Application. In both applications, the prior art grounds for rejecting the claims were the same and were based on the same prior art. Thus, the Applicants submit there is no need for separate examination of the claims now pending in this CPA. It is the undersigned's understanding that during the telephone interview, the Examiner agreed that restriction would not be necessary.

The undersigned gratefully acknowledges the interview conducted on May 29, 2003 and concurs with the Substance of Interview set forth in the Interview Summary mailed on June 3, 2003.

The Applicants respectfully request that this Preliminary Amendment be entered and that basic filing fee be computed based on the number of claims remaining after entry of the Preliminary Amendment. The claims now pending are claims 15, 16, 18, and 21-32, of which claims 15, 18, 21, 25 and 27 are independent. The presence of two extra independent claims ($2 \times \$84.00 = \168.00) increases the basic filing fee to \$918.00.